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REMARKS

I. STATUS OF THE CLAIMS

Claims 1-16 are pending in the present application, prior to this amendment. In the Office Action, claims 1-16 were rejected. Claims 1, 2, 4, 7, 8, 13, 15, and 16 are amended hereby. Claims 5, 6, and 12 are cancelled. Support for the amendments to claims 1, 2, 4, 7, 8, 13, 15, and 16 can be found throughout the specification. Thus, no new matter is presented.

II. CLAIM REJECTIONS UNDER 35 U.S.C. §112

In the Office Action, claims 1-16 were rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention. Specifically, claim 1 was rejected for reciting the terms "particularly," "preferably," and "and/or." Without addressing the merits of this rejection, claim 1 is amended hereby. Claims 2-16 depend directly or indirectly from claim 1. As such, it is believed that the rejection of claims 1-16 is obviated and should be withdrawn.

Additionally, claim 12 was rejected for lacking antecedent basis for "the or a further pipe." Claim 12 is amended hereby. As such, it is believed that the rejection of claims 12 and its associated dependent claims 13-15 is obviated and should be withdrawn.

Further, claim 15 was rejected for lacking antecedent basis for "the rod." Claim 15 is amended hereby. As such, it is believed that the rejection of claim 15 is obviated and should be withdrawn.

III. CLAIM REJECTIONS UNDER 35 U.S.C. §102(b) and 35 U.S.C. § 102(e)

Anticipation under §102 requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in that claim. *Sandt Technology, Ltd. v. Resco Metal and Plastics, Corp.*, 264 F.3d 1344, 1350, 60 U.S.P.Q.2d 1091, 1094 (Fed. Cir. 2001).

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A. Rejection under 35 U.S.C. §102(b) over U.S. Patent No. 5,308,040 to *Torres*

Claims 1-7 and 11 are rejected as being unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 5,308,040 to *Torres*. Claims 5 and 6 are cancelled. Claim 1 is amended hereby. As such, it is believed this rejection is obviated and should be withdrawn.

Torres is directed to a fluid flow regulation valve for use in the regulation of fluids (col. 1, lines 5-6). *Torres* does not teach or suggest, *inter alia*, a flow measuring device. In particular, *Torres* does not teach or suggest a flow control unit comprising a rotatably arranged pipe, and a flow measuring unit including a measuring body arranged in the pipe such as to be movable in and against the direction of the flow of the liquid within the pipe, as recited in amended claim 1. As such, *Torres* is insufficient to support a rejection of amended claim 1 and its associated dependent claims 2-4, 7, and 11. Thus, it is submitted respectfully that this rejection should be withdrawn.

B. Rejection under 35 U.S.C. § 102(b) over U.S. Patent No. 3,812,882 to *Taylor*

Claims 1 and 12 are rejected as being unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 3,812,882 to *Taylor*. Claim 12 is cancelled hereby. In view of the amendment to claim 1, it is believed that this rejection is obviated and should be withdrawn.

Taylor is directed to a restrictor valve including, *inter alia*, a centrally drilled and threaded boss including a plurality of bores. According to *Taylor*, the "purpose of the bores 92 is for receiving pressure reading instruments, such as pressure gauges... which are connected with each threaded bore 92... for obtaining upstream and downstream pressure readings" (col. 4, lines 54-61). Although pressure readings can be used to calculate fluid flow, *Taylor* does not include a device for directly measuring fluid flow. In particular, *Taylor* does not teach or suggest a flow control unit comprising a rotatably arranged pipe, and a flow measuring unit including a measuring body arranged in the pipe such as to be movable in and against the direction of the flow of the liquid within the pipe, as recited in amended claim 1. As such, it is submitted respectfully that *Taylor* is insufficient to support a rejection of amended claim 1 under 35 U.S.C. §102(b).

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C. Rejection under 35 U.S.C. § 102(e) over U.S. Patent No. 6,273,132 to Chrysler

Claims 1-2, 4-10, and 16 are rejected as being unpatentable under 35 U.S.C. §102(e). Claims 5 and 6 are cancelled. Claims 2, 4, 7-10, and 16 depend directly or indirectly from claim 1. In view of the amendment to claim 1, it is believed that this rejection is obviated and should be withdrawn.

Chrysler is directed to a valve for controlling the flow of fluid. *Chrysler* does not teach or suggest, *inter alia*, a flow measuring unit within the valve. More particularly, *Chrysler* does not teach or suggest a flow control unit comprising a rotatably arranged pipe, and a flow measuring unit including a measuring body arranged in the pipe such as to be movable in and against the direction of the flow of the liquid within the pipe, as recited in amended claim 1. As such, it is submitted respectfully that *Chrysler* is insufficient to support a rejection of amended claim 1 or its associated dependent claims 2-4, 7-10, and 16 under 35 U.S.C. §102(e).

IV. CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 13-15 are rejected as being unpatentable over 35 U.S.C. § 103(a) over *Taylor* in view of U.S. Patent No. 4,048,855 to *Sejournet*. Claims 13-15 depend directly or indirectly from claim 1, which is amended hereby. As such, it is submitted that this rejection is now obviated.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference or combination of references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP §2142.

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First, there is no motivation or suggestion to combine the teachings of *Taylor* and *Sejournet*. As recognized by the Court of Appeals for the Federal Circuit, the claimed invention must be viewed not only for its structure and properties, but also for the problem that it solves. *In re Wright*, 848 F.2d 1216, 6 USPQ2d 1959 (Fed. Cir. 1988).

As stated above, *Taylor* is directed to a restrictor valve including a centrally drilled and threaded boss including a plurality of bores for receiving pressure reading instruments. The restrictor valve of *Taylor* seeks to resolve "the problem of erosion caused by the high velocity streams of erosive fluids" (col. 1, lines 30-31, emphasis added).

In sharp contrast, *Sejournet* is directed to a petrol gauge for a motorcycle. *Sejournet* uses a pressure gauge to determine the level of petrol in the tank of the motorcycle. *Sejournet* seeks to measure the level a liquid that is not flowing. As such, one of ordinary skill in the art would not be motivated to combine the reference teachings, nor would one of skill in the art expect that the combination of *Taylor* and *Sejournet* would result in a successful combination.

Second, even if the references are combined properly, the combination of *Taylor* and *Sejournet* fails to teach or suggest all elements of Applicant's claimed invention. Neither *Taylor* nor *Sejournet* include a device to measure the flow of fluid. In particular, neither *Taylor* nor *Sejournet* teach or suggest, *inter alia*, a flow control unit comprising a rotatably arranged pipe, and a flow measuring unit including a measuring body arranged in the pipe such as to be movable in and against the direction of the flow of the liquid within the pipe, as recited in amended claim 1. Given that neither *Taylor* nor *Sejournet*, alone or in combination, teach or suggest all elements of the claimed invention, the combination of *Taylor* and *Sejournet* is sufficient to support a rejection of amended claim 1 under 35 U.S.C. §103(a). As such, it is submitted that the rejection of its associated dependent claims 13-15 should be withdrawn.

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CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed March 21, 2005 and is believed to place all claims in the application (claims 1-4, 7-11, and 13-16) in condition for allowance. Such action is courteously solicited.

Applicant reserves the right to defend in later prosecution and in courts of law all claims herein on these and other grounds, including without limitation presenting challenges to any and all grounds for rejections stated in the Office Action.

If the Examiner believes that there are any issues that can be resolved by telephone conference, or if there are any informalities that may be addressed by an Examiner's amendment, please contact the undersigned at (404) 879-2437.

Respectfully submitted,



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Dana E. Stano
Registration No. 50,750
Louis T. Isaf
Registration No. 29,078
Attorneys for Applicant

Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037
(404) 879-2437 (Telephone)
(404) 879-2937 (Facsimile)

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